



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

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MAILED

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Technology Center 2100

In re Application of: Hutton et al.)
Application No. 09/345,222)
Attorney Docket No. N0003/7000D3)
Filed: June 30, 1999)
For: POINT-TO-POINT INTERNET)
PROTOCOL)
DECISION ON PETITION TO
WITHDRAWAL HOLDING OF
ABANDONMENT UNDER 37 CFR §
1.181(a)

This is a decision on the petition filed on May 23, 2003 to withdraw the holding of abandonment (Paper No. 17) mailed on May 5, 2003 based upon a failure to receive a Notice of Allowance. Applicants' request is being treated as a petition under 37 CFR § 1.181(a).

Applicable Prosecution History

Dec 31, 2002 Notice of Allowance and issue fee due mailed (Paper No. 16).
Mar 31, 2003 Issue fee due date.

Issues

The petition includes statements from Jong H. Lee that the Notice of Allowance was not received; and that a search of the file jacket and docket records indicated the Notice of Allowance was not received. The practitioner has attached a copy of the file jacket data sheet, a copy of a log showing incoming mails for the relevant period and docket sheets showing due date entries for March 30, 2003; all of which are evidence the Notice of Allowance was not received.

Decision

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes the communication was properly mailed to the address of record. According to MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

- a) a statement from the practitioner that the Office action was not received,
- b) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates the Office communication was not received,

- c) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed, and
- d) a reference to the docket record in the practitioner's statement.

The statements in the petition are interpreted that the practitioner is personally aware that a search was made for the records at the *address of record*. That is, while papers have been filed by attorneys from the Washington DC office during the course of prosecution, that, in fact, the records and files checked for this petition were for the address of the New York office.

However, the submission is deficient because the practitioner has provided incomplete evidence. Specifically, the docket sheets only appear to cover the due date of March 30, 2003, but as noted above, the issue fee due date was March 31, 2003. Therefore, the presumption of nonreceipt remains. Submission of the docket records for March 31, 2003 would assist in establishing the practitioner's nonreceipt of the Notice of Allowance.

The petition is **DISMISSED**.

If petitioners desire further review of this decision, petitioners should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (703) 308-0269.



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